

AMENDED IN ASSEMBLY JUNE 19, 2007

AMENDED IN SENATE APRIL 19, 2007

SENATE BILL

No. 172

Introduced by Senator Alquist

February 5, 2007

An act to amend Sections ~~290~~, 290.04, 290.05, 290.3, 290.46, 3000, 5054.1, and 5054.2 of, and to amend and renumber Sections 288.3 and 3005 of, the Penal Code, relating to sex-offender *offenders*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 172, as amended, Alquist. Crimes: sex offenders.

Existing law provides for various penalty provisions related to sex offenders.

This bill would make nonsubstantive, conforming changes to those provisions. *The bill would make clarifying changes to provisions related to the risk assessment tool to be used to identify sex offenders, and would make related technical changes.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 288.3 of the Penal Code, as added by
- 2 Section 7 of Chapter 337 of the Statutes of 2006, is amended and
- 3 renumbered to read:

1 288.4. (a) (1) Every person who, motivated by an unnatural
2 or abnormal sexual interest in children, arranges a meeting with a
3 minor or a person he or she believes to be a minor for the purpose
4 of exposing his or her genitals or pubic or rectal area, having the
5 child expose his or her genitals or pubic or rectal area, or engaging
6 in lewd or lascivious behavior, shall be punished by a fine not
7 exceeding five thousand dollars (\$5,000), by imprisonment in a
8 county jail not exceeding one year, or by both the fine and
9 imprisonment.

10 (2) Every person who violates this subdivision after a prior
11 conviction for an offense listed in ~~subparagraph (A) of paragraph~~
12 ~~(2) of subdivision (a)~~ *subdivision (c)* of Section 290 shall be
13 punished by imprisonment in the state prison.

14 (b) Every person described in paragraph (1) of subdivision (a)
15 who goes to the arranged meeting place at or about the arranged
16 time, shall be punished by imprisonment in the state prison for
17 two, three, or four years.

18 (c) Nothing in this section shall preclude or prohibit prosecution
19 under any other provision of law.

20 SEC. 2.— Section 290 of the Penal Code is amended to read:

21 290. (a) (1) ~~(A) Every person described in paragraph (2), for~~
22 ~~the rest of his or her life while residing in California, or while~~
23 ~~attending school or working in California, as described in~~
24 ~~subparagraph (G), shall be required to register with the chief of~~
25 ~~police of the city in which he or she is residing, or the sheriff of~~
26 ~~the county if he or she is residing in an unincorporated area or city~~
27 ~~that has no police department, and, additionally, with the chief of~~
28 ~~police of a campus of the University of California, the California~~
29 ~~State University, or community college if he or she is residing~~
30 ~~upon the campus or in any of its facilities, within five working~~
31 ~~days of coming into, or changing his or her residence within, any~~
32 ~~city, county, or city and county, or campus in which he or she~~
33 ~~temporarily resides.~~

34 ~~(B) If the person who is registering has more than one residence~~
35 ~~address at which he or she regularly resides, he or she shall register~~
36 ~~in accordance with subparagraph (A) in each of the jurisdictions~~
37 ~~in which he or she regularly resides, regardless of the number of~~
38 ~~days or nights spent there. If all of the addresses are within the~~
39 ~~same jurisdiction, the person shall provide the registering authority~~
40 ~~with all of the addresses where he or she regularly resides.~~

(C) Every person described in paragraph (2), for the rest of his or her life while living as a transient in California shall be required to register, as follows:

(i) A transient must register, or reregister if the person has previously registered, within five working days from release from incarceration, placement or commitment, or release on probation, pursuant to paragraph (1) of subdivision (a), except that if the person previously registered as a transient less than 30 days from the date of his or her release from incarceration, he or she does not need to reregister as a transient until his or her next required 30-day update of registration. If a transient is not physically present in any one jurisdiction for five consecutive working days, he or she must register in the jurisdiction in which he or she is physically present on the fifth working day following release, pursuant to paragraph (1) of subdivision (a). Beginning on or before the 30th day following initial registration upon release, a transient must reregister no less than once every 30 days thereafter. A transient shall register with the chief of police of the city in which he or she is physically present within that 30-day period, or the sheriff of the county if he or she is physically present in an unincorporated area or city that has no police department, and additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is physically present upon the campus or in any of its facilities. A transient must reregister no less than once every 30 days regardless of the length of time he or she has been physically present in the particular jurisdiction in which he or she reregisters. If a transient fails to reregister within any 30-day period, he or she may be prosecuted in any jurisdiction in which he or she is physically present.

(ii) A transient who moves to a residence shall have five working days within which to register at that address, in accordance with subparagraph (A) of paragraph (1) of subdivision (a). A person registered at a residence address in accordance with subparagraph (A) of paragraph (1) of subdivision (a), who becomes transient shall have five working days within which to reregister as a transient in accordance with clause (i).

(iii) Beginning on his or her first birthday following registration, a transient shall register annually, within five working days of his or her birthday, to update his or her registration with the entities

described in clause (i). A transient shall register in whichever jurisdiction he or she is physically present on that date. At the 30-day updates and the annual update, a transient shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (c), and the information specified in clause (iv).

(iv) A transient shall, upon registration and reregistration, provide current information as required on the Department of Justice registration forms, and shall also list the places where he or she sleeps, eats, works, frequents, and engages in leisure activities. If a transient changes or adds to the places listed on the form during the 30-day period, he or she does not need to report the new place or places until the next required reregistration.

(v) Failure to comply with the requirement of reregistering every 30 days following initial registration pursuant to clause (i) of this subparagraph shall be punished in accordance with paragraph (6) of subdivision (g). Failure to comply with any other requirement of this section shall be punished in accordance with either paragraph (1) or (2) of subdivision (g).

(vi) A transient who moves out of state shall inform, in person, the chief of police in the city in which he or she is physically present, or the sheriff of the county if he or she is physically present in an unincorporated area or city that has no police department, within five working days, of his or her move out of state. The transient shall inform that registering agency of his or her planned destination, residence or transient location out of state, and any plans he or she has to return to California, if known. The law enforcement agency shall, within three days after receipt of this information, forward a copy of the change of location information to the Department of Justice. The department shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence or location.

(vii) For purposes of this section, “transient” means a person who has no residence. “Residence” means one or more addresses at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

1 ~~(viii) The transient registrant's duty to update his or her~~
2 ~~registration no less than every 30 days shall begin with his or her~~
3 ~~second transient update following the date this subdivision became~~
4 ~~effective.~~

5 ~~(D) Beginning on his or her first birthday following registration~~
6 ~~or change of address, the person shall be required to register~~
7 ~~annually, within five working days of his or her birthday, to update~~
8 ~~his or her registration with the entities described in subparagraph~~
9 ~~(A). At the annual update, the person shall provide current~~
10 ~~information as required on the Department of Justice annual update~~
11 ~~form, including the information described in subparagraphs (A)~~
12 ~~to (C), inclusive, of paragraph (2) of subdivision (c). The~~
13 ~~registering agency shall give the registrant a copy of the registration~~
14 ~~requirements from the Department of Justice form.~~

15 ~~(E) In addition, every person who has ever been adjudicated a~~
16 ~~sexually violent predator, as defined in Section 6600 of the Welfare~~
17 ~~and Institutions Code, shall, after his or her release from custody,~~
18 ~~verify his or her address no less than once every 90 days and place~~
19 ~~of employment, including the name and address of the employer,~~
20 ~~in a manner established by the Department of Justice.~~

21 ~~(F) No entity shall require a person to pay a fee to register or~~
22 ~~update his or her registration pursuant to this section. The~~
23 ~~registering agency shall submit registrations, including annual~~
24 ~~updates or changes of address, directly into the Department of~~
25 ~~Justice Violent Crime Information Network (VCIN).~~

26 ~~(G) Persons required to register in their state of residence who~~
27 ~~are out-of-state residents employed, or carrying on a vocation in~~
28 ~~California on a full-time or part-time basis, with or without~~
29 ~~compensation, for more than 14 days, or for an aggregate period~~
30 ~~exceeding 30 days in a calendar year, shall register in accordance~~
31 ~~with subparagraph (A). Persons described in paragraph (2) who~~
32 ~~are out-of-state residents enrolled in any educational institution in~~
33 ~~California, as defined in Section 22129 of the Education Code, on~~
34 ~~a full-time or part-time basis, shall register in accordance with~~
35 ~~subparagraph (A). The place where the out-of-state resident is~~
36 ~~located, for purposes of registration, shall be the place where the~~
37 ~~person is employed, carrying on a vocation, or attending school.~~
38 ~~The out-of-state resident subject to this subparagraph shall, in~~
39 ~~addition to the information required pursuant to subdivision (c),~~
40 ~~provide the registering authority with the name of his or her place~~

1 of employment or the name of the school attended in California;
2 and his or her address or location in his or her state of residence.
3 The registration requirement for persons subject to this
4 subparagraph shall become operative on November 25, 2000. The
5 terms “employed or carries on a vocation” include employment
6 whether or not financially compensated, volunteered, or performed
7 for government or educational benefit.

8 (2) The following persons shall be required to register pursuant
9 to paragraph (1):

10 (A) Any person who, since July 1, 1944, has been or is hereafter
11 convicted in any court in this state or in any federal or military
12 court of a violation of Section 187 committed in the perpetration,
13 or an attempt to perpetrate, rape or any act punishable under
14 Section 286, 288, 288a, or 289, Section 207 or 209 committed
15 with intent to violate Section 261, 286, 288, 288a, or 289, Section
16 220, except assault to commit mayhem, Section 243.4, paragraph
17 (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or
18 paragraph (1) of subdivision (a) of Section 262 involving the use
19 of force or violence for which the person is sentenced to the state
20 prison, Section 264.1, 266, or 266c, subdivision (b) of Section
21 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285,
22 286, 288, 288a, 288.3, 288.4, 288.5, 288.7, or 289, Section 311.1,
23 subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4,
24 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of
25 Section 653f, subdivision 1 or 2 of Section 314, any offense
26 involving lewd or lascivious conduct under Section 272, or any
27 felony violation of Section 288.2; or any statutory predecessor that
28 includes all elements of one of the above-mentioned offenses; or
29 any person who since that date has been or is hereafter convicted
30 of the attempt or conspiracy to commit any of the above-mentioned
31 offenses.

32 (B) Any person who, since July 1, 1944, has been or hereafter
33 is released, discharged, or paroled from a penal institution where
34 he or she was confined because of the commission or attempted
35 commission of one of the offenses described in subparagraph (A).

36 (C) Any person who, since July 1, 1944, has been or hereafter
37 is determined to be a mentally disordered sex offender under
38 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
39 of Division 6 of the Welfare and Institutions Code or any person
40 who has been found guilty in the guilt phase of a trial for an offense

1 for which registration is required by this section but who has been
2 found not guilty by reason of insanity in the sanity phase of the
3 trial.

4 (D) (i) Any person who, since July 1, 1944, has been, or is
5 hereafter convicted in any other court, including any state, federal,
6 or military court, of any offense that, if committed or attempted
7 in this state, would have been punishable as one or more of the
8 offenses described in subparagraph (A), including offenses in
9 which the person was a principal, as defined in Section 31.

10 (ii) Any person ordered by any other court, including any state,
11 federal, or military court, to register as a sex offender for any
12 offense, if the court found at the time of conviction or sentencing
13 that the person committed the offense as a result of sexual
14 compulsion or for purposes of sexual gratification.

15 (iii) (I) Except as provided in subclause (II), any person who
16 would be required to register while residing in the state of
17 conviction for a sex offense committed in that state.

18 (II) Notwithstanding subclause (I), a person convicted in another
19 state of an offense similar to one of the following offenses who is
20 required to register in the state of conviction shall not be required
21 to register in California unless the out-of-state offense contains all
22 of the elements of a registerable California offense described in
23 subparagraph (A):

24 (ia) Indecent exposure, pursuant to Section 314.

25 (ib) Unlawful sexual intercourse, pursuant to Section 261.5.

26 (ic) Incest, pursuant to Section 285.

27 (id) Sodomy, pursuant to Section 286, or oral copulation,
28 pursuant to Section 288a, provided that the offender notifies the
29 Department of Justice that the sodomy or oral copulation conviction
30 was for conduct between consenting adults, as described in
31 subparagraph (G) and the department is able, upon the exercise of
32 reasonable diligence, to verify that fact.

33 (ie) Pimping, pursuant to Section 266h, or pandering, pursuant
34 to Section 266i.

35 (E) Any person ordered by any court to register pursuant to this
36 section for any offense not included specifically in this section if
37 the court finds at the time of conviction or sentencing that the
38 person committed the offense as a result of sexual compulsion or
39 for purposes of sexual gratification. The court shall state on the

1 ~~record the reasons for its findings and the reasons for requiring~~
2 ~~registration.~~

3 ~~(F) Any person required to register pursuant to any provision~~
4 ~~of this section, regardless of whether the person's conviction has~~
5 ~~been dismissed pursuant to Section 1203.4, unless the person~~
6 ~~obtains a certificate of rehabilitation and is entitled to relief from~~
7 ~~registration pursuant to Section 290.5.~~

8 ~~(G) (i) Notwithstanding any other subdivision, a person who~~
9 ~~was convicted before January 1, 1976, under subdivision (a) of~~
10 ~~Section 286, or Section 288a, shall not be required to register~~
11 ~~pursuant to this section for that conviction if the conviction was~~
12 ~~for conduct between consenting adults that was decriminalized by~~
13 ~~Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes~~
14 ~~of 1976. The Department of Justice shall remove that person from~~
15 ~~the Sex Offender Registry, and the person is discharged from his~~
16 ~~or her duty to register pursuant either of the following procedures:~~

17 ~~(I) The person submits to the Department of Justice official~~
18 ~~documentary evidence, including court records or police reports,~~
19 ~~that demonstrate that the person's conviction pursuant to either of~~
20 ~~those sections was for conduct between consenting adults that was~~
21 ~~decriminalized.~~

22 ~~(II) The person submits to the department a declaration stating~~
23 ~~that the person's conviction pursuant to either of those sections~~
24 ~~was for consensual conduct between adults that has been~~
25 ~~decriminalized. The declaration shall be confidential and not a~~
26 ~~public record, and shall include the person's name, address,~~
27 ~~telephone number, date of birth, and a summary of the~~
28 ~~circumstances leading to the conviction, including the date of the~~
29 ~~conviction and county of the occurrence.~~

30 ~~(III) The department shall determine whether the person's~~
31 ~~conviction was for conduct between consensual adults that has~~
32 ~~been decriminalized. If the conviction was for consensual conduct~~
33 ~~between adults that has been decriminalized, and the person has~~
34 ~~no other offenses for which he or she is required to register~~
35 ~~pursuant to this section, the department shall, within 60 days of~~
36 ~~receipt of those documents, notify the person that he or she is~~
37 ~~relieved of the duty to register, and shall notify the local law~~
38 ~~enforcement agency with which the person is registered that he or~~
39 ~~she has been relieved of the duty to register. The local law~~
40 ~~enforcement agency shall remove the person's registration from~~

1 its files within 30 days of receipt of notification. If the documentary
2 or other evidence submitted is insufficient to establish the person's
3 claim, the department shall, within 60 days of receipt of those
4 documents, notify the person that his or her claim cannot be
5 established, and that the person shall continue to register pursuant
6 to this section. The department shall provide, upon the person's
7 request, any information relied upon by the department in making
8 its determination that the person shall continue to register pursuant
9 to this section. Any person whose claim has been denied by the
10 department pursuant to this clause may petition the court to appeal
11 the department's denial of the person's claim.

12 (ii) ~~On or before July 1, 1998, the department shall make a report~~
13 ~~to the Legislature concerning the status of persons who may come~~
14 ~~under the provisions of this subparagraph, including the number~~
15 ~~of persons who were convicted before January 1, 1976, under~~
16 ~~subdivision (a) of Section 286 or Section 288a and are required to~~
17 ~~register under this section, the average age of these persons, the~~
18 ~~number of these persons who have any subsequent convictions for~~
19 ~~a registerable sex offense, and the number of these persons who~~
20 ~~have sought successfully or unsuccessfully to be relieved of their~~
21 ~~duty to register under this section.~~

22 (b) (1) ~~Any person who is released, discharged, or paroled from~~
23 ~~a jail, state or federal prison, school, road camp, or other institution~~
24 ~~where he or she was confined because of the commission or~~
25 ~~attempted commission of one of the offenses specified in~~
26 ~~subdivision (a) or is released from a state hospital to which he or~~
27 ~~she was committed as a mentally disordered sex offender under~~
28 ~~Article 1 (commencing with Section 6300) of Chapter 2 of Part 2~~
29 ~~of Division 6 of the Welfare and Institutions Code, shall, prior to~~
30 ~~discharge, parole, or release, be informed of his or her duty to~~
31 ~~register under this section by the official in charge of the place of~~
32 ~~confinement or hospital, and the official shall require the person~~
33 ~~to read and sign any form that may be required by the Department~~
34 ~~of Justice, stating that the duty of the person to register under this~~
35 ~~section has been explained to the person. The official in charge of~~
36 ~~the place of confinement or hospital shall obtain the address where~~
37 ~~the person expects to reside upon his or her discharge, parole, or~~
38 ~~release and shall report the address to the Department of Justice.~~
39 ~~The official shall at the same time forward a current photograph~~
40 ~~of the person to the Department of Justice.~~

~~(2) The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction that makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement or hospital shall retain one copy.~~

~~(e) (1) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation, shall, prior to release or discharge, be informed of the duty to register under this section by the probation department, and a probation officer shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The probation officer shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The probation officer shall give one copy of the form to the person; send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.~~

~~(2) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is granted conditional release without supervised probation, or discharged upon payment of a fine, shall, prior to release or discharge, be informed of the duty to register under this section in open court by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. If the court finds that it~~

1 is in the interest of the efficiency of the court, the court may assign
2 the bailiff to require the person to read and sign forms under this
3 section. The court shall obtain the address where the person expects
4 to reside upon release or discharge and shall report within three
5 days the address to the Department of Justice. The court shall give
6 one copy of the form to the person, send one copy to the
7 Department of Justice, and forward one copy to the appropriate
8 law enforcement agency or agencies having local jurisdiction where
9 the person expects to reside upon his or her discharge, parole, or
10 release.

11 ~~(d) (1) Any person who, on or after January 1, 1986, is~~
12 ~~discharged or paroled from the Department of Corrections and~~
13 ~~Rehabilitation to the custody of which he or she was committed~~
14 ~~after having been adjudicated a ward of the juvenile court pursuant~~
15 ~~to Section 602 of the Welfare and Institutions Code because of the~~
16 ~~commission or attempted commission of any offense described in~~
17 ~~paragraph (3) shall be subject to registration under the procedures~~
18 ~~of this section.~~

19 ~~(2) Any person who is discharged or paroled from a facility in~~
20 ~~another state that is equivalent to the Division of Juvenile Justice;~~
21 ~~to the custody of which he or she was committed because of an~~
22 ~~offense which, if committed or attempted in this state, would have~~
23 ~~been punishable as one or more of the offenses described in~~
24 ~~paragraph (3), shall be subject to registration under the procedures~~
25 ~~of this section.~~

26 ~~(3) Any person described in this subdivision who committed~~
27 ~~an offense in violation of any of the following provisions shall be~~
28 ~~required to register pursuant to this section:~~

29 ~~(A) Assault with intent to commit rape, sodomy, oral copulation,~~
30 ~~or any violation of Section 264.1, 288, or 289 under Section 220.~~

31 ~~(B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of~~
32 ~~subdivision (a) of Section 261, Section 264.1, 266c, or 267;~~
33 ~~paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,~~
34 ~~Section 286, Section 288 or 288.5, paragraph (1) of subdivision~~
35 ~~(b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a)~~
36 ~~of Section 289, or Section 647.6.~~

37 ~~(C) A violation of Section 207 or 209 committed with the intent~~
38 ~~to violate Section 261, 286, 288, 288a, or 289.~~

39 ~~(4) Prior to discharge or parole from the Department of~~
40 ~~Corrections and Rehabilitation, any person who is subject to~~

1 registration under this subdivision shall be informed of the duty
2 to register under the procedures set forth in this section. Department
3 officials shall transmit the required forms and information to the
4 Department of Justice.

5 (5) All records specifically relating to the registration in the
6 custody of the Department of Justice, law enforcement agencies,
7 and other agencies or public officials shall be destroyed when the
8 person who is required to register has his or her records sealed
9 under the procedures set forth in Section 781 of the Welfare and
10 Institutions Code. This subdivision shall not be construed as
11 requiring the destruction of other criminal offender or juvenile
12 records relating to the case that are maintained by the Department
13 of Justice, law enforcement agencies, the juvenile court, or other
14 agencies and public officials unless ordered by a court under
15 Section 781 of the Welfare and Institutions Code.

16 (e) (1) On or after January 1, 1998, upon incarceration,
17 placement, or commitment, or prior to release on probation, any
18 person who is required to register under this section shall
19 preregister. The preregistering official shall be the admitting officer
20 at the place of incarceration, placement, or commitment, or the
21 probation officer if the person is to be released on probation. The
22 preregistration shall consist of all of the following:

23 (A) A preregistration statement in writing, signed by the person,
24 giving information that shall be required by the Department of
25 Justice.

26 (B) The fingerprints and a current photograph of the person.

27 (C) Any person who is preregistered pursuant to this subdivision
28 is required to be preregistered only once.

29 (2) A person described in paragraph (2) of subdivision (a) shall
30 register, or reregister if the person has previously registered, upon
31 release from incarceration, placement, commitment, or release on
32 probation pursuant to paragraph (1) of subdivision (a). This
33 paragraph shall not apply to a person who is incarcerated for less
34 than 30 days if he or she has registered as required by paragraph
35 (1) of subdivision (a), he or she returns after incarceration to the
36 last registered address, and the annual update of registration that
37 is required to occur within five working days of his or her birthday,
38 pursuant to subparagraph (D) of paragraph (1) of subdivision (a),
39 did not fall within that incarceration period. The registration shall
40 consist of all of the following:

1 ~~(A) A statement in writing signed by the person, giving~~
2 ~~information as shall be required by the Department of Justice and~~
3 ~~giving the name and address of the person's employer, and the~~
4 ~~address of the person's place of employment if that is different~~
5 ~~from the employer's main address.~~

6 ~~(B) The fingerprints and a current photograph of the person~~
7 ~~taken by the registering official.~~

8 ~~(C) The license plate number of any vehicle owned by, regularly~~
9 ~~driven by, or registered in the name of the person.~~

10 ~~(D) Notice to the person that, in addition to the requirements of~~
11 ~~paragraph (4), he or she may have a duty to register in any other~~
12 ~~state where he or she may relocate.~~

13 ~~(E) Copies of adequate proof of residence, which shall be limited~~
14 ~~to a California driver's license, California identification card, recent~~
15 ~~rent or utility receipt, printed personalized checks or other recent~~
16 ~~banking documents showing that person's name and address, or~~
17 ~~any other information that the registering official believes is~~
18 ~~reliable. If the person has no residence and no reasonable~~
19 ~~expectation of obtaining a residence in the foreseeable future, the~~
20 ~~person shall so advise the registering official and shall sign a~~
21 ~~statement provided by the registering official stating that fact.~~
22 ~~Upon presentation of proof of residence to the registering official~~
23 ~~or a signed statement that the person has no residence, the person~~
24 ~~shall be allowed to register. If the person claims that he or she has~~
25 ~~a residence but does not have any proof of residence, he or she~~
26 ~~shall be allowed to register but shall furnish proof of residence~~
27 ~~within 30 days of the date he or she is allowed to register.~~

28 ~~(3) Within three days thereafter, the preregistering official or~~
29 ~~the registering law enforcement agency or agencies shall forward~~
30 ~~the statement, fingerprints, photograph, and vehicle license plate~~
31 ~~number, if any, to the Department of Justice.~~

32 ~~(f) (1) (A) Any person who was last registered at a residence~~
33 ~~address pursuant to this section who changes his or her residence~~
34 ~~address, whether within the jurisdiction in which he or she is~~
35 ~~currently registered or to a new jurisdiction inside or outside the~~
36 ~~state, shall, in person, within five working days of the move, inform~~
37 ~~the law enforcement agency or agencies with which he or she last~~
38 ~~registered of the move, the new address or transient location, if~~
39 ~~known, and any plans he or she has to return to California.~~

1 ~~(B) If the person does not know the new residence address or~~
2 ~~location at the time of the move, the registrant shall, in person,~~
3 ~~within five working days of the move, inform the last registering~~
4 ~~agency or agencies that he or she is moving. The person shall later~~
5 ~~notify the last registering agency or agencies, in writing, sent by~~
6 ~~certified or registered mail, of the new address or location within~~
7 ~~five working days of moving into the new residence address or~~
8 ~~location, whether temporary or permanent.~~

9 ~~(C) The law enforcement agency or agencies shall, within three~~
10 ~~working days after receipt of this information, forward a copy of~~
11 ~~the change of address information to the Department of Justice.~~
12 ~~The Department of Justice shall forward appropriate registration~~
13 ~~data to the law enforcement agency or agencies having local~~
14 ~~jurisdiction of the new place of residence.~~

15 ~~(2) If the person's new address is in a Department of Corrections~~
16 ~~and Rehabilitation facility or state mental institution, an official~~
17 ~~of the place of incarceration, placement, or commitment shall,~~
18 ~~within 90 days of receipt of the person, forward the registrant's~~
19 ~~change of address information to the Department of Justice. The~~
20 ~~agency need not provide a physical address for the registrant but~~
21 ~~shall indicate that he or she is serving a period of incarceration or~~
22 ~~commitment in a facility under the agency's jurisdiction. This~~
23 ~~paragraph shall apply to persons received in a department facility~~
24 ~~or state mental institution on or after January 1, 1999. The~~
25 ~~Department of Justice shall forward the change of address~~
26 ~~information to the agency with which the person last registered.~~

27 ~~(3) If any person who is required to register pursuant to this~~
28 ~~section changes his or her name, the person shall inform, in person,~~
29 ~~the law enforcement agency or agencies with which he or she is~~
30 ~~currently registered within five working days. The law enforcement~~
31 ~~agency or agencies shall forward a copy of this information to the~~
32 ~~Department of Justice within three working days of its receipt.~~

33 ~~(g) (1) Any person who is required to register under this section~~
34 ~~based on a misdemeanor conviction or juvenile adjudication who~~
35 ~~willfully violates any requirement of this section is guilty of a~~
36 ~~misdemeanor punishable by imprisonment in a county jail not~~
37 ~~exceeding one year.~~

38 ~~(2) Except as provided in paragraphs (5), (7), and (9), any person~~
39 ~~who is required to register under this section based on a felony~~
40 ~~conviction or juvenile adjudication who willfully violates any~~

1 requirement of this section or who has a prior conviction or juvenile
2 adjudication for the offense of failing to register under this section
3 and who subsequently and willfully violates any requirement of
4 this section is guilty of a felony and shall be punished by
5 imprisonment in the state prison for 16 months, or two or three
6 years.

7 If probation is granted or if the imposition or execution of
8 sentence is suspended, it shall be a condition of the probation or
9 suspension that the person serve at least 90 days in a county jail.
10 The penalty described in this paragraph shall apply whether or not
11 the person has been released on parole or has been discharged from
12 parole.

13 (3) Any person determined to be a mentally disordered sex
14 offender or who has been found guilty in the guilt phase of trial
15 for an offense for which registration is required under this section,
16 but who has been found not guilty by reason of insanity in the
17 sanity phase of the trial, or who has had a petition sustained in a
18 juvenile adjudication for an offense for which registration is
19 required under this section pursuant to subdivision (d), but who
20 has been found not guilty by reason of insanity, who willfully
21 violates any requirement of this section is guilty of a misdemeanor
22 and shall be punished by imprisonment in a county jail not
23 exceeding one year. For any second or subsequent willful violation
24 of any requirement of this section, the person is guilty of a felony
25 and shall be punished by imprisonment in the state prison for 16
26 months, or two or three years.

27 (4) If, after discharge from parole, the person is convicted of a
28 felony or suffers a juvenile adjudication as specified in this
29 subdivision, he or she shall be required to complete parole of at
30 least one year, in addition to any other punishment imposed under
31 this subdivision. A person convicted of a felony as specified in
32 this subdivision may be granted probation only in the unusual case
33 where the interests of justice would best be served. When probation
34 is granted under this paragraph, the court shall specify on the record
35 and shall enter into the minutes the circumstances indicating that
36 the interests of justice would best be served by the disposition.

37 (5) Any person who has ever been adjudicated a sexually violent
38 predator, as defined in Section 6600 of the Welfare and Institutions
39 Code, and who fails to verify his or her registration every 90 days
40 as required pursuant to subparagraph (E) of paragraph (1) of

1 ~~subdivision (a), shall be punished by imprisonment in the state~~
2 ~~prison, or in a county jail not exceeding one year.~~

3 ~~(6) Except as otherwise provided in paragraph (5), any person~~
4 ~~who is required to register or reregister pursuant to clause (i) of~~
5 ~~subparagraph (C) of paragraph (1) of subdivision (a) and willfully~~
6 ~~fails to comply with the requirement that he or she reregister no~~
7 ~~less than every 30 days is guilty of a misdemeanor and shall be~~
8 ~~punished by imprisonment in a county jail at least 30 days, but not~~
9 ~~exceeding six months. A person who willfully fails to comply with~~
10 ~~the requirement that he or she reregister no less than every 30 days~~
11 ~~shall not be charged with this violation more often than once for~~
12 ~~a failure to register in any period of 90 days. Any person who~~
13 ~~willfully commits a third or subsequent violation of the~~
14 ~~requirements of subparagraph (C) of paragraph (1) of subdivision~~
15 ~~(a) that he or she reregister no less than every 30 days shall be~~
16 ~~punished in accordance with either paragraph (1) or (2) of this~~
17 ~~subdivision.~~

18 ~~(7) Any person who fails to provide proof of residence as~~
19 ~~required by subparagraph (E) of paragraph (2) of subdivision (c);~~
20 ~~regardless of the offense upon which the duty to register is based;~~
21 ~~is guilty of a misdemeanor punishable by imprisonment in a county~~
22 ~~jail not exceeding six months.~~

23 ~~(8) Any person who is required to register under this section~~
24 ~~who willfully violates any requirement of this section is guilty of~~
25 ~~a continuing offense as to each requirement he or she violated.~~

26 ~~(9) In addition to any other penalty imposed under this~~
27 ~~subdivision, the failure to provide information required on~~
28 ~~registration and reregistration forms of the Department of Justice,~~
29 ~~or the provision of false information, is a crime punishable by~~
30 ~~imprisonment in a county jail for a period not exceeding one year.~~

31 ~~(h) Whenever any person is released on parole or probation and~~
32 ~~is required to register under this section but fails to do so within~~
33 ~~the time prescribed, the parole authority or the court, as the case~~
34 ~~may be, shall order the parole or probation of the person revoked.~~
35 ~~For purposes of this subdivision, "parole authority" has the same~~
36 ~~meaning as described in Section 3000.~~

37 ~~(i) Except as otherwise provided by law, the statements,~~
38 ~~photographs, and fingerprints required by this section shall not be~~
39 ~~open to inspection by the public or by any person other than a~~
40 ~~regularly employed peace officer or other law enforcement officer.~~

1 (j) ~~In any case in which a person who would be required to~~
2 ~~register pursuant to this section for a felony conviction is to be~~
3 ~~temporarily sent outside the institution where he or she is confined~~
4 ~~on any assignment within a city or county including firefighting,~~
5 ~~disaster control, or of whatever nature the assignment may be, the~~
6 ~~local law enforcement agency having jurisdiction over the place~~
7 ~~or places where the assignment shall occur shall be notified within~~
8 ~~a reasonable time prior to removal from the institution. This~~
9 ~~subdivision shall not apply to any person who is temporarily~~
10 ~~released under guard from the institution where he or she is~~
11 ~~confined.~~

12 (k) ~~As used in this section, “mentally disordered sex offender”~~
13 ~~includes any person who has been determined to be a sexual~~
14 ~~psychopath or a mentally disordered sex offender under any~~
15 ~~provision which, on or before January 1, 1976, was contained in~~
16 ~~Division 6 (commencing with Section 6000) of the Welfare and~~
17 ~~Institutions Code.~~

18 (l) ~~(1) Every person who, prior to January 1, 1997, is required~~
19 ~~to register under this section, shall be notified whenever he or she~~
20 ~~next reregisters of the reduction of the registration period from 14~~
21 ~~to 5 working days. This notice shall be provided in writing by the~~
22 ~~registering agency or agencies. Failure to receive this notification~~
23 ~~shall be a defense against the penalties prescribed by subdivision~~
24 ~~(g) if the person did register within 14 days.~~

25 ~~(2) Every person who, as a sexually violent predator, as defined~~
26 ~~in Section 6600 of the Welfare and Institutions Code, is required~~
27 ~~to verify his or her registration every 90 days, shall be notified~~
28 ~~wherever he or she next registers of his or her increased registration~~
29 ~~obligations. This notice shall be provided in writing by the~~
30 ~~registering agency or agencies. Failure to receive this notice shall~~
31 ~~be a defense against the penalties prescribed by paragraph (5) of~~
32 ~~subdivision (g).~~

33 (m) ~~The registration provisions of this section are applicable to~~
34 ~~every person described in this section, without regard to when his~~
35 ~~or her crime or crimes were committed or his or her duty to register~~
36 ~~pursuant to this section arose, and to every offense described in~~
37 ~~this section, regardless of when it was committed.~~

38 (n) ~~On or before June 1, 2010, the Department of Justice shall~~
39 ~~renovate the VCIN to do the following:~~

1 ~~(1) Correct all software deficiencies affecting data integrity and~~
2 ~~include designated data fields for all mandated sex offender data.~~

3 ~~(2) Consolidate and simplify program logic, thereby increasing~~
4 ~~system performance and reducing system maintenance costs.~~

5 ~~(3) Provide all necessary data storage, processing, and search~~
6 ~~capabilities.~~

7 ~~(4) Provide law enforcement agencies with full Internet access~~
8 ~~to all sex offender data and photos.~~

9 ~~(5) Incorporate a flexible design structure to readily meet future~~
10 ~~demands for enhanced system functionality, including public~~
11 ~~Internet access to sex offender information pursuant to Section~~
12 ~~290.46.~~

13 *SEC. 2. Section 290.04 of the Penal Code is amended to read:*

14 290.04. (a) (1) The sex offender risk assessment tools
15 authorized by this section for use with selected populations shall
16 be known, with respect to each population, as the State-Authorized
17 Risk Assessment Tool for Sex Offenders (SARATSO). If a
18 SARATSO has not been selected for a given population pursuant
19 to this section, no duty to administer the SARATSO elsewhere in
20 this code shall apply with respect to that population. Every person
21 required to register as a sex offender shall be subject to assessment
22 with the SARATSO as set forth in this section and elsewhere in
23 this code.

24 (2) A representative of the State Department of Mental Health,
25 in consultation with a representative of the Department of
26 Corrections and Rehabilitation and a representative of the Attorney
27 General's office, shall comprise the SARATSO Review
28 Committee. The purpose of the committee, which shall be staffed
29 by the State Department of Mental Health, shall be to ensure that
30 the SARATSO reflects the most reliable, objective and
31 well-established protocols for predicting sex offender risk of
32 recidivism, has been scientifically validated ~~with multiple~~
33 ~~cross-validations and cross validated~~, and is, *or is reasonably*
34 *likely to be*, widely accepted by the courts. The committee shall
35 consult with experts in the fields of risk assessment and the use of
36 actuarial instruments in predicting sex offender risk, sex offending,
37 sex offender treatment, mental health, and law, as it deems
38 appropriate.

1 (b) (1) Commencing January 1, 2007, the SARATSO for adult
2 males required to register as sex offenders shall be the STATIC-99
3 risk assessment scale.

4 (2) On or before January 1, 2008, the SARATSO Review
5 Committee shall determine whether the STATIC-99 should be
6 supplemented with an actuarial instrument that measures dynamic
7 risk factors or whether the STATIC-99 should be replaced as the
8 SARATSO with a different risk assessment tool. If the committee
9 unanimously agrees on changes to be made to the SARATSO, it
10 shall advise the Governor and the Legislature of the changes, and
11 the State Department of Mental Health shall post the decision on
12 its Internet Web site. Sixty days after the decision is posted, the
13 selected tool shall become the SARATSO for adult males.

14 (c) On or before July 1, 2007, the SARATSO Review Committee
15 shall research risk assessment tools for *adult* females required to
16 register as sex offenders. If the committee unanimously agrees on
17 an appropriate risk assessment tool to be used to assess this
18 population, it shall advise the Governor and the Legislature of the
19 selected tool, and the State Department of Mental Health shall post
20 the decision on its Internet Web site. Sixty days after the decision
21 is posted, the selected tool shall become the SARATSO for *adult*
22 females.

23 (d) On or before ~~January~~ July 1, 2007, the SARATSO Review
24 Committee shall research risk assessment tools for *male* juveniles
25 required to register as sex offenders. If the committee unanimously
26 agrees on an appropriate risk assessment tool to be used to assess
27 this population, it shall advise the Governor and the Legislature
28 of the selected tool, and the State Department of Mental Health
29 shall post the decision on its Internet Web site. Sixty days after
30 the decision is posted, the selected tool shall become the
31 SARATSO for *male* juveniles.

32 (e) *On or before July 1, 2007, the SARATSO Review Committee*
33 *shall research risk assessment tools for female juveniles required*
34 *to register as sex offenders. If the committee unanimously agrees*
35 *on an appropriate risk assessment tool to be used to assess this*
36 *population, it shall advise the Governor and the Legislature of the*
37 *selected tool, and the State Department of Mental Health shall*
38 *post the decision on its Internet Web site. Sixty days after the*
39 *decision is posted, the selected tool shall become the SARATSO*
40 *for female juveniles.*

1 ~~(e)~~—

2 (f) The committee shall periodically evaluate the SARATSO
3 for each specified population. If the committee unanimously agrees
4 on a change to the SARATSO for any population, it shall advise
5 the Governor and the Legislature of the selected tool, and the State
6 Department of Mental Health shall post the decision on its Internet
7 Web site. Sixty days after the decision is posted, the selected tool
8 shall become the SARATSO for that population.

9 ~~(f)~~

10 (g) The committee shall perform other functions consistent with
11 the provisions of this act or as may be otherwise required by law,
12 including, but not limited to, defining tiers of risk based on the
13 SARATSO. The committee shall be immune from liability for
14 good faith conduct under this act.

15 SEC. 3. Section 290.05 of the Penal Code is amended to read:

16 290.05. (a) ~~On~~ The SARATSO Training Committee shall be
17 comprised of a representative of the State Department of Mental
18 Health, a representative of the Department of Corrections and
19 Rehabilitation, a representative of the Attorney General's Office,
20 and a Chief Probation Officer selected by the Chief Probation
21 Officers of California.

22 (b) On or before January 1, 2008, the SARATSO Review
23 Training Committee established pursuant to Section 290.04, in
24 consultation with the ~~entities specified in subdivision (b)~~
25 Corrections Standards Authority and the Commission on Peace
26 Officer Standards and Training, shall develop a training program
27 for persons authorized by this code to administer the SARATSO,
28 as set forth in Section 290.04.

29 ~~(b)~~

30 (c) (1) The Department of Corrections and Rehabilitation shall
31 be responsible for overseeing the training of persons who will
32 administer the SARATSO pursuant to paragraph (1) or (2) of
33 subdivision (a) of Section 290.06.

34 (2) The State Department of Mental Health shall be responsible
35 for overseeing the training of persons who will administer the
36 SARATSO pursuant to paragraph (3) of subdivision (a) of Section
37 290.06.

38 (3) The Correction Standards Authority shall be responsible for
39 developing standards for the training of persons who will

1 administer the SARATSO pursuant to paragraph (4) or (5) of
2 subdivision (a) of Section 290.06.

3 (4) The Commission on Peace Officer Standards and Training
4 shall be responsible for developing standards for the training of
5 persons who will administer the SARATSO pursuant to subdivision
6 (c) of Section 290.06.

7 ~~(e)~~

8 (d) The training shall be conducted by experts in the field of
9 risk assessment and the use of actuarial instruments in predicting
10 sex offender risk. Subject to requirements established by the
11 committee, the Department of Corrections and Rehabilitation, the
12 State Department of Mental Health, probation departments, and
13 authorized local law enforcement agencies shall designate key
14 persons within their organizations to attend training and, as
15 authorized by the department, to train others within their
16 organizations designated to perform risk assessments as required
17 or authorized by law. Any person who administers the SARATSO
18 shall receive training no less frequently than every two years.

19 ~~(d)~~

20 (e) The SARATSO may be performed for purposes authorized
21 by statute only by persons trained pursuant to this section.

22 *SEC. 4. Section 290.3 of the Penal Code is amended to read:*

23 290.3. (a) Every person who is convicted of any offense
24 specified in subdivision ~~(a)~~ (c) of Section 290 shall, in addition to
25 any imprisonment or fine, or both, imposed for commission of the
26 underlying offense, be punished by a fine of three hundred dollars
27 (\$300) upon the first conviction or a fine of five hundred dollars
28 (\$500) upon the second and each subsequent conviction, unless
29 the court determines that the defendant does not have the ability
30 to pay the fine.

31 An amount equal to all fines collected pursuant to this
32 subdivision during the preceding month upon conviction of, or
33 upon the forfeiture of bail by, any person arrested for, or convicted
34 of, committing an offense specified in subdivision ~~(a)~~ (c) of Section
35 290, shall be transferred once a month by the county treasurer to
36 the Controller for deposit in the General Fund. Moneys deposited
37 in the General Fund pursuant to this subdivision shall be transferred
38 by the Controller as provided in subdivision (b).

39 (b) Except as provided in subdivision (d), out of the moneys
40 deposited pursuant to subdivision (a) as a result of second and

1 subsequent convictions of Section 290, one-third shall first be
2 transferred to the Department of Justice Sexual Habitual Offender
3 Fund, as provided in paragraph (1) of this subdivision. Out of the
4 remainder of all moneys deposited pursuant to subdivision (a), 50
5 percent shall be transferred to the Department of Justice Sexual
6 Habitual Offender Fund, as provided in paragraph (1), ~~25~~ 50
7 percent shall be transferred to the ~~Department of Justice DNA~~
8 ~~Testing Fund~~, as provided in paragraph (2), and 25 percent shall
9 be allocated equally to counties that maintain a local DNA testing
10 laboratory, as provided in paragraph (3) *DNA Identification Fund*,
11 *as established by Section 76104.6 of the Government Code*.

12 ~~(1) Those~~

13 *Those* moneys so designated shall be transferred to the
14 Department of Justice Sexual Habitual Offender Fund created
15 pursuant to paragraph (5) of subdivision (b) of Section 11170 and,
16 when appropriated by the Legislature, shall be used for the
17 purposes of Chapter 9.5 (commencing with Section 13885) and
18 Chapter 10 (commencing with Section 13890) of Title 6 of Part 4
19 for the purpose of monitoring, apprehending, and prosecuting
20 sexual habitual offenders.

21 ~~(2) Those moneys so designated shall be directed to the~~
22 ~~Department of Justice and transferred to the Department of Justice~~
23 ~~DNA Testing Fund, which is hereby created, for the exclusive~~
24 ~~purpose of testing deoxyribonucleic acid (DNA) samples for law~~
25 ~~enforcement purposes. The moneys in that fund shall be available~~
26 ~~for expenditure upon appropriation by the Legislature.~~

27 ~~(3) Those moneys so designated shall be allocated equally and~~
28 ~~distributed quarterly to counties that maintain a local DNA testing~~
29 ~~laboratory. Before making any allocations under this paragraph,~~
30 ~~the Controller shall deduct the estimated costs that will be incurred~~
31 ~~to set up and administer the payment of these funds to the counties.~~
32 ~~Any funds allocated to a county pursuant to this paragraph shall~~
33 ~~be used by that county for the exclusive purpose of testing DNA~~
34 ~~samples for law enforcement purposes.~~

35 (c) Notwithstanding any other provision of this section, the
36 Department of Corrections ~~or the Department of the Youth~~
37 ~~Authority and Rehabilitation~~ may collect a fine imposed pursuant
38 to this section from a person convicted of a violation of any offense
39 listed in subdivision ~~(a)~~ (c) of Section 290, that results in
40 incarceration in a facility under the jurisdiction of the Department

1 of Corrections ~~or the Department of the Youth Authority and~~
2 *Rehabilitation*. All moneys collected by the Department of
3 Corrections ~~or the Department of the Youth Authority and~~
4 *Rehabilitation* under this subdivision shall be transferred, once a
5 month, to the Controller for deposit in the General Fund, as
6 provided in subdivision (a), for transfer by the Controller, as
7 provided in subdivision (b).

8 (d) An amount equal to one hundred dollars (\$100) for every
9 fine imposed pursuant to subdivision (a) in excess of one hundred
10 dollars (\$100) shall be transferred to the Department of Corrections
11 and Rehabilitation to defray the cost of the global positioning
12 system used to monitor sex offender parolees.

13 ~~SEC. 3.~~

14 *SEC. 5.* Section 290.46 of the Penal Code is amended to read:

15 290.46. (a) (1) On or before the dates specified in this section,
16 the Department of Justice shall make available information
17 concerning persons who are required to register pursuant to Section
18 290 to the public via an Internet Web site as specified in this
19 section. The department shall update the Internet Web site on an
20 ongoing basis. All information identifying the victim by name,
21 birth date, address, or relationship to the registrant shall be
22 excluded from the Internet Web site. The name or address of the
23 person's employer and the listed person's criminal history other
24 than the specific crimes for which the person is required to register
25 shall not be included on the Internet Web site. The Internet Web
26 site shall be translated into languages other than English as
27 determined by the department.

28 (2) (A) On or before July 1, 2010, the Department of Justice
29 shall make available to the public, via an Internet Web site as
30 specified in this section, as to any person described in subdivisions
31 (b), (c), or (d), the following information:

32 (i) The year of conviction of his or her most recent offense
33 requiring registration pursuant to Section 290.

34 (ii) The year he or she was released from incarceration for that
35 offense.

36 (iii) Whether he or she was subsequently incarcerated for any
37 other felony, if that fact is reported to the department. If the
38 department has no information about a subsequent incarceration
39 for any felony, that fact shall be noted on the Internet Web site.

1 However, no year of conviction shall be made available to the
2 public unless the department also is able to make available the
3 corresponding year of release of incarceration for that offense, and
4 the required notation regarding any subsequent felony.

5 (B) (i) Any state facility that releases from incarceration a
6 person who was incarcerated because of a crime for which he or
7 she is required to register as a sex offender pursuant to Section
8 290 shall, within 30 days of release, provide the year of release
9 for his or her most recent offense requiring registration to the
10 Department of Justice in a manner and format approved by the
11 department.

12 (ii) Any state facility that releases a person who is required to
13 register pursuant to Section 290 from incarceration whose
14 incarceration was for a felony committed subsequently to the
15 offense for which he or she is required to register shall, within 30
16 days of release, advise the Department of Justice of that fact.

17 (iii) Any state facility that, prior to January 1, 2007, released
18 from incarceration a person who was incarcerated because of a
19 crime for which he or she is required to register as a sex offender
20 pursuant to Section 290 shall provide the year of release for his or
21 her most recent offense requiring registration to the Department
22 of Justice in a manner and format approved by the department.
23 The information provided by the Department of Corrections and
24 Rehabilitation shall be limited to information that is currently
25 maintained in an electronic format.

26 (iv) Any state facility that, prior to January 1, 2007, released a
27 person who is required to register pursuant to Section 290 from
28 incarceration whose incarceration was for a felony committed
29 subsequently to the offense for which he or she is required to
30 register shall advise the Department of Justice of that fact in a
31 manner and format approved by the department. The information
32 provided by the Department of Corrections and Rehabilitation
33 shall be limited to information that is currently maintained in an
34 electronic format.

35 (3) The State Department of Mental Health shall provide to the
36 Department of Justice Sex Offender Tracking Program the names
37 of all persons committed to its custody pursuant to Article 4
38 (commencing with Section 6600) of Chapter 2 of Part 2 of Division
39 6 of the Welfare and Institutions Code, within 30 days of

1 commitment, and shall provide the names of all of those persons
2 released from its custody within five working days of release.

3 (b) (1) On or before July 1, 2005, with respect to a person who
4 has been convicted of the commission or the attempted commission
5 of any of the offenses listed in, or who is described in, paragraph
6 (2), the Department of Justice shall make available to the public
7 via the Internet Web site his or her name and known aliases, a
8 photograph, a physical description, including gender and race, date
9 of birth, criminal history, prior adjudication as a sexually violent
10 predator, the address at which the person resides, and any other
11 information that the Department of Justice deems relevant, but not
12 the information excluded pursuant to subdivision (a).

13 (2) This subdivision shall apply to the following offenses and
14 offenders:

15 (A) Section 207 committed with intent to violate Section 261,
16 286, 288, 288a, or 289.

17 (B) Section 209 committed with intent to violate Section 261,
18 286, 288, 288a, or 289.

19 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

20 (D) Section 264.1.

21 (E) Section 269.

22 (F) Subdivision (c) or (d) of Section 286.

23 (G) Subdivision (a), (b), or (c) of Section 288, provided that the
24 offense is a felony.

25 (H) Subdivision (c) or (d) of Section 288a.

26 (I) Section 288.3, provided that the offense is a felony.

27 (J) Section 288.4, provided that the offense is a felony.

28 (K) Section 288.5.

29 (L) Subdivision (a) or (j) of Section 289.

30 (M) Section 288.7.

31 (N) Any person who has ever been adjudicated a sexually violent
32 predator, as defined in Section 6600 of the Welfare and Institutions
33 Code.

34 (c) (1) On or before July 1, 2005, with respect to a person who
35 has been convicted of the commission or the attempted commission
36 of any of the offenses listed in paragraph (2), the Department of
37 Justice shall make available to the public via the Internet Web site
38 his or her name and known aliases, a photograph, a physical
39 description, including gender and race, date of birth, criminal
40 history, the community of residence and ZIP Code in which the

1 person resides or the county in which the person is registered as a
2 transient, and any other information that the Department of Justice
3 deems relevant, but not the information excluded pursuant to
4 subdivision (a). On or before July 1, 2006, the Department of
5 Justice shall determine whether any person convicted of an offense
6 listed in paragraph (2) also has one or more prior or subsequent
7 convictions of an offense listed in ~~paragraph (2) of subdivision (a)~~
8 *subdivision (c)* of Section 290, and, for those persons, the
9 Department of Justice shall make available to the public via the
10 Internet Web site the address at which the person resides. However,
11 the address at which the person resides shall not be disclosed until
12 a determination is made that the person is, by virtue of his or her
13 additional prior or subsequent conviction of an offense listed in
14 ~~paragraph (2) of subdivision (a)~~ *subdivision (c)* of Section 290,
15 subject to this subdivision.

16 (2) This subdivision shall apply to the following offenses:

17 (A) Section 220, except assault to commit mayhem.

18 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

19 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
20 (i), of Section 286.

21 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
22 (i), of Section 288a.

23 (E) Subdivision (b), (d), (e), or (i) of Section 289.

24 (d) (1) On or before July 1, 2005, with respect to a person who
25 has been convicted of the commission or the attempted commission
26 of any of the offenses listed in, or who is described in, this
27 subdivision, the Department of Justice shall make available to the
28 public via the Internet Web site his or her name and known aliases,
29 a photograph, a physical description, including gender and race,
30 date of birth, criminal history, the community of residence and
31 ZIP Code in which the person resides or the county in which the
32 person is registered as a transient, and any other information that
33 the Department of Justice deems relevant, but not the information
34 excluded pursuant to subdivision (a) or the address at which the
35 person resides.

36 (2) This subdivision shall apply to the following offenses and
37 offenders:

38 (A) Subdivision (a) of Section 243.4, provided that the offense
39 is a felony.

40 (B) Section 266, provided that the offense is a felony.

1 (C) Section 266c, provided that the offense is a felony.

2 (D) Section 266j.

3 (E) Section 267.

4 (F) Subdivision (c) of Section 288, provided that the offense is
5 a misdemeanor.

6 (G) Section 288.3, provided that the offense is a misdemeanor.

7 (H) Section 288.4, provided that the offense is a misdemeanor.

8 (I) Section 626.81.

9 (J) Section 647.6.

10 (K) Section 653c.

11 (L) Any person required to register pursuant to Section 290
12 based upon an out-of-state conviction, unless that person is
13 excluded from the Internet Web site pursuant to subdivision (e).
14 However, if the Department of Justice has determined that the
15 out-of-state crime, if committed or attempted in this state, would
16 have been punishable in this state as a crime described in
17 ~~subparagraph (A) of paragraph (2) of subdivision (a) of Section~~
18 *subdivision (c) of Section 290*, the person shall be placed on the
19 Internet Web site as provided in subdivision (b) or (c), as applicable
20 to the crime.

21 (e) (1) If a person has been convicted of the commission or the
22 attempted commission of any of the offenses listed in this
23 subdivision, and he or she has been convicted of no other offense
24 listed in subdivision (b), (c), or (d) other than those listed in this
25 subdivision, that person may file an application with the
26 Department of Justice, on a form approved by the department, for
27 exclusion from the Internet Web site. If the department determines
28 that the person meets the requirements of this subdivision, the
29 department shall grant the exclusion and no information concerning
30 the person shall be made available via the Internet Web site
31 described in this section. He or she bears the burden of proving
32 the facts that make him or her eligible for exclusion from the
33 Internet Web site. However, a person who has filed for or been
34 granted an exclusion from the Internet Web site is not relieved of
35 his or her duty to register as a sex offender pursuant to Section
36 290 nor from any otherwise applicable provision of law.

37 (2) This subdivision shall apply to the following offenses:

38 (A) A felony violation of subdivision (a) of Section 243.4.

39 (B) Section 647.6, if the offense is a misdemeanor.

1 (C) (i) An offense for which the offender successfully
2 completed probation, provided that the offender submits to the
3 department a certified copy of a probation report, presentencing
4 report, report prepared pursuant to Section 288.1, or other official
5 court document that clearly demonstrates that the offender was
6 the victim's parent, stepparent, sibling, or grandparent and that the
7 crime did not involve either oral copulation or penetration of the
8 vagina or rectum of either the victim or the offender by the penis
9 of the other or by any foreign object.

10 (ii) An offense for which the offender is on probation at the
11 time of his or her application, provided that the offender submits
12 to the department a certified copy of a probation report,
13 presentencing report, report prepared pursuant to Section 288.1,
14 or other official court document that clearly demonstrates that the
15 offender was the victim's parent, stepparent, sibling, or grandparent
16 and that the crime did not involve either oral copulation or
17 penetration of the vagina or rectum of either the victim or the
18 offender by the penis of the other or by any foreign object.

19 (iii) If, subsequent to his or her application, the offender commits
20 a violation of probation resulting in his or her incarceration in
21 county jail or state prison, his or her exclusion, or application for
22 exclusion, from the Internet Web site shall be terminated.

23 (iv) For the purposes of this subparagraph, "successfully
24 completed probation" means that during the period of probation
25 the offender neither received additional county jail or state prison
26 time for a violation of probation nor was convicted of another
27 offense resulting in a sentence to county jail or state prison.

28 (3) If the department determines that a person who was granted
29 an exclusion under a former version of this subdivision would not
30 qualify for an exclusion under the current version of this
31 subdivision, the department shall rescind the exclusion, make a
32 reasonable effort to provide notification to the person that the
33 exclusion has been rescinded, and, no sooner than 30 days after
34 notification is attempted, make information about the offender
35 available to the public on the Internet Web site as provided in this
36 section.

37 (4) Effective January 1, 2012, no person shall be excluded
38 pursuant to this subdivision unless the offender has submitted to
39 the department documentation sufficient for the department to

1 determine that he or she has a SARATSO risk level of low or
2 moderate-low.

3 (f) The Department of Justice shall make a reasonable effort to
4 provide notification to persons who have been convicted of the
5 commission or attempted commission of an offense specified in
6 subdivision (b), (c), or (d), that on or before July 1, 2005, the
7 department is required to make information about specified sex
8 offenders available to the public via an Internet Web site as
9 specified in this section. The Department of Justice shall also make
10 a reasonable effort to provide notice that some offenders are
11 eligible to apply for exclusion from the Internet Web site.

12 (g) (1) A designated law enforcement entity, as defined in
13 subdivision (f) of Section 290.45, may make available information
14 concerning persons who are required to register pursuant to Section
15 290 to the public via an Internet Web site as specified in paragraph
16 (2).

17 (2) The law enforcement entity may make available by way of
18 an Internet Web site the information described in subdivision (c)
19 if it determines that the public disclosure of the information about
20 a specific offender by way of the entity's Internet Web site is
21 necessary to ensure the public safety based upon information
22 available to the entity concerning that specific offender.

23 (3) The information that may be provided pursuant to this
24 subdivision may include the information specified in subdivision
25 (b) of Section 290.45. However, that offender's address may not
26 be disclosed unless he or she is a person whose address is on the
27 Department of Justice's Internet Web site pursuant to subdivision
28 (b) or (c).

29 (h) For purposes of this section, "offense" includes the statutory
30 predecessors of that offense, or any offense committed in another
31 jurisdiction that, if committed or attempted to be committed in this
32 state, would have been punishable in this state as an offense listed
33 ~~in subparagraph (A) of paragraph (2) of subdivision (a) of Section~~
34 ~~in subdivision (c) of Section 290.~~

35 (i) Notwithstanding Section 6254.5 of the Government Code,
36 disclosure of information pursuant to this section is not a waiver
37 of exemptions under Chapter 3.5 (commencing with Section 6250)
38 of Title 1 of Division 7 of the Government Code and does not
39 affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars (\$1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(l) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

- (A) Health insurance.
- (B) Insurance.
- (C) Loans.
- (D) Credit.
- (E) Employment.
- (F) Education, scholarships, or fellowships.
- (G) Housing or accommodations.
- (H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(4) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) or in violation of paragraph (2) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount

1 of actual damage, and not less than two hundred fifty dollars
2 (\$250), and attorney's fees, exemplary damages, or a civil penalty
3 not exceeding twenty-five thousand dollars (\$25,000).

4 (B) Whenever there is reasonable cause to believe that any
5 person or group of persons is engaged in a pattern or practice of
6 misuse of the information available via an Internet Web site
7 established pursuant to this section in violation of paragraph (2),
8 the Attorney General, any district attorney, or city attorney, or any
9 person aggrieved by the misuse is authorized to bring a civil action
10 in the appropriate court requesting preventive relief, including an
11 application for a permanent or temporary injunction, restraining
12 order, or other order against the person or group of persons
13 responsible for the pattern or practice of misuse. The foregoing
14 remedies shall be independent of any other remedies or procedures
15 that may be available to an aggrieved party under other provisions
16 of law, including Part 2 (commencing with Section 43) of Division
17 1 of the Civil Code.

18 (m) The public notification provisions of this section are
19 applicable to every person described in this section, without regard
20 to when his or her crimes were committed or his or her duty to
21 register pursuant to Section 290 arose, and to every offense
22 described in this section, regardless of when it was committed.

23 (n) On or before July 1, 2006, and every year thereafter, the
24 Department of Justice shall make a report to the Legislature
25 concerning the operation of this section.

26 (o) A designated law enforcement entity and its employees shall
27 be immune from liability for good faith conduct under this section.

28 (p) The Attorney General, in collaboration with local law
29 enforcement and others knowledgeable about sex offenders, shall
30 develop strategies to assist members of the public in understanding
31 and using publicly available information about registered sex
32 offenders to further public safety. These strategies may include,
33 but are not limited to, a hotline for community inquiries,
34 neighborhood and business guidelines for how to respond to
35 information posted on this Web site, and any other resource that
36 promotes public education about these offenders.

37 ~~SEC. 4.~~

38 *SEC. 6.* Section 3000 of the Penal Code is amended to read:

39 3000. (a) (1) The Legislature finds and declares that the period
40 immediately following incarceration is critical to successful

1 reintegration of the offender into society and to positive citizenship.
2 It is in the interest of public safety for the state to provide for the
3 supervision of and surveillance of parolees, including the judicious
4 use of revocation actions, and to provide educational, vocational,
5 family and personal counseling necessary to assist parolees in the
6 transition between imprisonment and discharge. A sentence
7 pursuant to Section 1168 or 1170 shall include a period of parole,
8 unless waived, as provided in this section.

9 (2) The Legislature finds and declares that it is not the intent of
10 this section to diminish resources allocated to the Department of
11 Corrections and Rehabilitation for parole functions for which the
12 department is responsible. It is also not the intent of this section
13 to diminish the resources allocated to the Board of Parole Hearings
14 to execute its duties with respect to parole functions for which the
15 board is responsible.

16 (3) The Legislature finds and declares that diligent effort must
17 be made to ensure that parolees are held accountable for their
18 criminal behavior, including, but not limited to, the satisfaction of
19 restitution fines and orders.

20 (4) The parole period of any person found to be a sexually
21 violent predator shall be tolled until that person is found to no
22 longer be a sexually violent predator, at which time the period of
23 parole, or any remaining portion thereof, shall begin to run.

24 (b) Notwithstanding any provision to the contrary in Article 3
25 (commencing with Section 3040) of this chapter, the following
26 shall apply:

27 (1) At the expiration of a term of imprisonment of one year and
28 one day, or a term of imprisonment imposed pursuant to Section
29 1170 or at the expiration of a term reduced pursuant to Section
30 2931 or 2933, if applicable, the inmate shall be released on parole
31 for a period not exceeding three years, except that any inmate
32 sentenced for an offense specified in paragraph (3), (4), (5), (6),
33 (11), (16), or (18) of subdivision (c) of Section 667.5 shall be
34 released on parole for a period not exceeding five years, unless in
35 either case the parole authority for good cause waives parole and
36 discharges the inmate from the custody of the department.

37 (2) In the case of any inmate sentenced under Section 1168, the
38 period of parole shall not exceed five years in the case of an inmate
39 imprisoned for any offense other than first or second degree murder
40 for which the inmate has received a life sentence, and shall not

1 exceed three years in the case of any other inmate, unless in either
2 case the parole authority for good cause waives parole and
3 discharges the inmate from custody of the department. This
4 subdivision shall also be applicable to inmates who committed
5 crimes prior to July 1, 1977, to the extent specified in Section
6 1170.2.

7 (3) Notwithstanding paragraphs (1) and (2), in the case of any
8 offense for which the inmate has received a life sentence pursuant
9 to Section 667.61 or 667.71, the period of parole shall be 10 years.

10 (4) The parole authority shall consider the request of any inmate
11 regarding the length of his or her parole and the conditions thereof.

12 (5) Upon successful completion of parole, or at the end of the
13 maximum statutory period of parole specified for the inmate under
14 paragraph (1), (2), or (3), as the case may be, whichever is earlier,
15 the inmate shall be discharged from custody. The date of the
16 maximum statutory period of parole under this subdivision and
17 paragraphs (1), (2), and (3) shall be computed from the date of
18 initial parole and shall be a period chronologically determined.
19 Time during which parole is suspended because the prisoner has
20 absconded or has been returned to custody as a parole violator
21 shall not be credited toward any period of parole unless the prisoner
22 is found not guilty of the parole violation. However, the period of
23 parole is subject to the following:

24 (A) Except as provided in Section 3064, in no case may a
25 prisoner subject to three years on parole be retained under parole
26 supervision or in custody for a period longer than four years from
27 the date of his or her initial parole.

28 (B) Except as provided in Section 3064, in no case may a
29 prisoner subject to five years on parole be retained under parole
30 supervision or in custody for a period longer than seven years from
31 the date of his or her initial parole.

32 (C) Except as provided in Section 3064, in no case may a
33 prisoner subject to 10 years on parole be retained under parole
34 supervision or in custody for a period longer than 15 years from
35 the date of his or her initial parole.

36 (6) The Department of Corrections and Rehabilitation shall meet
37 with each inmate at least 30 days prior to his or her good time
38 release date and shall provide, under guidelines specified by the
39 parole authority, the conditions of parole and the length of parole
40 up to the maximum period of time provided by law. The inmate

1 has the right to reconsideration of the length of parole and
2 conditions thereof by the parole authority. The Department of
3 Corrections and Rehabilitation or the Board of Parole Hearings
4 may impose as a condition of parole that a prisoner make payments
5 on the prisoner's outstanding restitution fines or orders imposed
6 pursuant to subdivision (a) or (c) of Section 13967 of the
7 Government Code, as operative prior to September 28, 1994, or
8 subdivision (b) or (f) of Section 1202.4.

9 (7) For purposes of this chapter, the Board of Parole Hearings
10 shall be considered the parole authority.

11 (8) The sole authority to issue warrants for the return to actual
12 custody of any state prisoner released on parole rests with the
13 Board of Parole Hearings, except for any escaped state prisoner
14 or any state prisoner released prior to his or her scheduled release
15 date who should be returned to custody, and Section 3060 shall
16 apply.

17 (9) It is the intent of the Legislature that efforts be made with
18 respect to persons who are subject to ~~subparagraph (C) of paragraph~~
19 ~~(1) of subdivision (a) of Section 290~~ *Section 290.011* who are on
20 parole to engage them in treatment.

21 ~~SEC. 5.~~

22 *SEC. 7.* Section 3005 of the Penal Code is amended and
23 renumbered to read:

24 3008. (a) The Department of Corrections and Rehabilitation
25 shall ensure that all parolees under active supervision who are
26 deemed to pose a high risk to the public of committing sex crimes,
27 as determined by the State-Authorized Risk Assessment Tool for
28 Sex Offenders (SARATSO), as set forth in Sections 290.04 to
29 290.06, inclusive, are placed on intensive and specialized parole
30 supervision and are required to report frequently to designated
31 parole officers. The department may place any other parolee
32 convicted of an offense that requires him or her to register as a sex
33 offender pursuant to Section 290 who is on active supervision on
34 intensive and specialized supervision and require him or her to
35 report frequently to designated parole officers.

36 (b) The department shall develop and, at the discretion of the
37 secretary, and subject to an appropriation of the necessary funds,
38 may implement a plan for the implementation of relapse prevention
39 treatment programs, and the provision of other services deemed
40 necessary by the department, in conjunction with intensive and

1 specialized parole supervision, to reduce the recidivism of sex
2 offenders.

3 (c) The department shall develop control and containment
4 programming for sex offenders who have been deemed to pose a
5 high risk to the public of committing a sex crime, as determined
6 by the SARATSO, and shall require participation in appropriate
7 programming as a condition of parole.

8 ~~SEC. 6.~~

9 *SEC. 8.* Section 5054.1 of the Penal Code is amended to read:

10 5054.1. The Secretary of Department and Rehabilitation has
11 full power to order returned to custody any person under the
12 secretary's jurisdiction. The written order of the secretary shall be
13 sufficient warrant for any peace officer to return to actual custody
14 any escaped state prisoner or any state prisoner released prior to
15 his or her scheduled release date who should be returned to custody.
16 All peace officers shall execute an order as otherwise provided by
17 law.

18 ~~SEC. 7.~~

19 *SEC. 9.* Section 5054.2 of the Penal Code is amended to read:

20 5054.2. Whenever a person is incarcerated in a state prison for
21 violating Section 261, 264.1, 266c, 285, 286, 288, 288a, 288.5, or
22 289, and the victim of one or more of those offenses is a child
23 under the age of 18 years, the Secretary of the Department of
24 Corrections and Rehabilitation shall protect the interest of that
25 child victim by prohibiting visitation between the incarcerated
26 person and the child victim pursuant to Section 1202.05. The
27 secretary shall allow visitation only when the juvenile court,
28 pursuant to Section 362.6 of the Welfare and Institutions Code,
29 finds that visitation between the incarcerated person and his or her
30 child victim is in the best interests of the child victim.

31 ~~SEC. 8.~~

32 *SEC. 10.* This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety within
34 the meaning of Article IV of the Constitution and shall go into
35 immediate effect. The facts constituting the necessity are:

36 In order to ensure that conforming changes are made to laws
37 relating to sex offenders, it is necessary that this act take effect
38 immediately.

O